

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)**

In re:)	
)	
THE EDUCATION RESOURCES)	Chapter 11
INSTITUTE, INC.,)	Case No. 08-12540-HJB
)	
Debtor.)	
)	
OFFICIAL COMMITTEE OF UNSECURED)	
CREDITORS OF THE EDUCATION RESOURCES)	
INSTITUTE, INC., on behalf of itself and, derivatively,)	
on behalf of the Debtor and bankruptcy estate,)	
)	
Plaintiff,)	Adv. No. 09-01040
v.)	
)	
The National Collegiate Master Student Loan Trust I)	
(a/k/a The National Collegiate Student Loan Trust 2001)	
A/R 1, 2, 3))	
The National Collegiate Trust 2001-CP1)	
The National Collegiate Trust 2002-CP1)	
The National Collegiate Student Loan Trust 2003-1)	
The National Collegiate Student Loan Trust 2004-1)	
The National Collegiate Student Loan Trust 2004-2)	
The National Collegiate Student Loan Trust 2005-1)	
The National Collegiate Student Loan Trust 2005-2)	
The National Collegiate Student Loan Trust 2005-3)	
The National Collegiate Student Loan Trust 2006-1)	
The National Collegiate Student Loan Trust 2006-2)	
The National Collegiate Student Loan Trust 2006-3)	
The National Collegiate Student Loan Trust 2006-4)	
The National Collegiate Student Loan Trust 2007-1)	
The National Collegiate Student Loan Trust 2007-2)	
The National Collegiate Student Loan Trust 2007-3)	
The National Collegiate Student Loan Trust 2007-4;)	
)	
WILMINGTON TRUST COMPANY,)	
as Owner-Trustee;)	
)	
U.S. BANK NATIONAL ASSOCIATION)	
as Indenture Trustee and custodian; and)	
)	
FIRST MARBLEHEAD DATA SERVICES, INC.)	
as Administrator for Trusts,)	
)	
Defendants.)	

AFFIDAVIT OF NICHOLAS J. NESGOS

I, Nicholas J. Nesgos, do depose and state as follows:

1. I am a partner at Posternak Blankstein & Lund LLP, which represents the Plaintiff in this Adversary Proceeding, the Official Committee of Unsecured Creditors of the Education Resources Institute, Inc.
2. I submit this affidavit in support of the Plaintiff's Opposition to the following motions to dismiss: (1) Motion to Dismiss the Committee's First Amended Adversary Complaint filed by defendants Wilmington Trust Company ("Wilmington") and First Marblehead Data Services, Inc. ("FMDS") (collectively, the "Defendants") [Docket No. 43]; (2) Defendants' Memorandum of Law in Reply to Plaintiff's Opposition to Motion to Dismiss and in Support of Defendants' Motion to Dismiss First Amended Adversary Complaint (the "Reply Memorandum") [Docket No. 44]; and (3) Motion of Trusts to Dismiss First Amended Adversary Complaint [Docket No. 56].
3. On May 13, 2009, I caused 17 copies of the Summons and Complaint in this action to be served via certified mail, on Ted T. Cecala, CEO of Wilmington Trust Company, pursuant to Bankruptcy Rule 7004(h).
4. On May 19, 2009, process was received by Patrice J. Smith on behalf of Ted T. Cecala. A true and correct copy of the delivery receipt, service letter and delivery confirmation from the carrier is attached hereto as Exhibit A.
5. A true and correct copy of the Certificate of Service is attached hereto as Exhibit B. The Certificate of Service was filed with the Bankruptcy Court and appears on the docket as entry number 41.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 13TH DAY OF JUNE 2009.



Nicholas J. Nesgos

CERTIFICATE OF SERVICE

IT IS CERTIFIED that the foregoing document was filed this 13th day of June, 2009 through the ECF filing system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and by separate email to counsel to Wilmington Trust Company at shandler@rlf.com.

/s/ Nicholas J. Nesgos

EXHIBIT A

Posternak
POSTERNAK BLANKSTEIN & LUND LLP

May 13, 2009

Laura A. Otenti
617-973-6116
617-722-4926 FAX
lotenti@pbl.com

Via Certified Mail Return Receipt Requested
7008 0150 0002 7832 2168

Ted T. Cecala, CEO
Wilmington Trust Co.
1100 N. Market Street
Wilmington, DE 19890-0001

Re: Official Committee of Unsecured Creditors of The Education Resources Institute, Inc. v. The National Collegiate Master Student Loan Trust I, et al. Ad. No. 09-1040 (In Re: The Education Resources Institute, Inc.).

Dear Mr. Cecala:

In connection with the above-referenced matter, enclosed please find 17 copies of the following:

1. First Amended Adversary Complaint; and
2. Alias Summons in an Adversary Proceeding.

These documents are being served on the 17 named defendant trusts of which Wilmington Trust Company is Owner-Trustee.

Please feel free to contact me if you have any questions.

Very truly yours,



Laura A. Otenti

LAO\jms

Enclosures

cc: David J. Reier, Esquire (w/out enclosures)
Nicholas N. Nesgos, Esquire (w/out enclosures)

ID # 585915v01/16357-2

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Track & Confirm

Search Results

Label/Receipt Number: 7008 0150 0002 7832 2168

Service(s): Certified Mail™

Status: Delivered

Your item was delivered at 12:40 PM on May 19, 2009 in WILMINGTON, DE 19801.

Detailed Results:

- Delivered, May 19, 2009, 12:40 pm, WILMINGTON, DE 19801
- Arrival at Unit, May 19, 2009, 5:32 am, WILMINGTON, DE 19801

Notification Options

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SENDER: COMPLETE THIS SECTION

- Postmark: Patrice Smith
- ☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 - ☒ Print your name and address on the reverse so that we can return the card to you.
 - ☒ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Ted T. Cecala, CEO
Wilmington Trust Co.
1100 N. Market Street
Wilmington, DE 19890-0001

2. Article Number:
(Transfer from s)

7008 0150 0002 7832 2168

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Patrice T. Smith*

☒ Agent

☐ Address

B. Received by (Printed Name)

Patrice T. Smith

C. Date of Delivery

5/19/09

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

EXHIBIT B

CERTIFICATE OF SERVICE

I, Laura A. Otenti, certify that I am, and at all times during the service of process, not less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that the service of this summons and a copy of the complaint was made : May 13, 2009 (Date) by:

Certified Mail Return Receipt Requested

☒ Mail service: ~~Regular, first class United States mail~~ postage fully pre-paid, addressed to:

Ted T. Cecala, CEO
Wilmington Trust Co.
1100 N. Market Street
Wilmington, DE 19890-0001

☐ Personal Service: By leaving the process with defendant or with an officer or agent of defendant at:

☐ Residence Service: By leaving the process with the following adult at:

☐ Publication: The defendant was served as follows: [Describe briefly]

☐ State Law: The defendant was served pursuant to the laws of the State of _____ as follows:
[Describe briefly]

Under penalty of perjury, I declare that the foregoing is true and correct.

5/21/09
Date

Laura Otenti
Signature

Laura A. Otenti, Esquire		
Print Name	Posternak, Blankstein & Lund LLP	
	Prudential tower	
	800 Boylston Street	
Business Address		
Boston, ..	Massachusetts	02199
City	State	Zip

Josephine Spagnoli

From: Laura A. Otenti

Sent: Thursday, May 21, 2009 12:26 PM

To: Josephine Spagnoli

Subject: FW: Ch- hjb 09-01040 Summons Service Executed; Official Committee of Unsecured Creditors v. Wilmington Trust Company et al

From: DO_NOT_REPLY@mab.uscourts.gov [mailto:DO_NOT_REPLY@mab.uscourts.gov]

Sent: Thursday, May 21, 2009 12:24 PM

To: help@mab.uscourts.gov

Subject: Ch- hjb 09-01040 Summons Service Executed; Official Committee of Unsecured Creditors v. Wilmington Trust Company et al

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. The free electronic copy is available for 15 days after the date of this notice. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30-page limit do not apply.

United States Bankruptcy Court

District of Massachusetts

Notice of Electronic Filing

The following transaction was received from Otenti, Laura entered on 5/21/2009 at 12:23 PM EDT and filed on 5/21/2009

Case Name: Official Committee of Unsecured Creditors v. Wilmington Trust Company et al

Case Number: 09-01040

Document Number: 41

Docket Text:

Summons Service Executed on The National Collegiate Master Student Loan Trust I 5/13/2009; The National Collegiate Student Loan Trust 2003-1 5/13/2009; The National Collegiate Student Loan Trust 2004-1 5/13/2009; The National Collegiate Student Loan Trust 2004-2 5/13/2009; The National Collegiate Student Loan Trust 2005-1 5/13/2009; The National Collegiate Student Loan Trust 2005-2 5/13/2009; The National Collegiate Student Loan Trust 2005-3 5/13/2009; The National Collegiate Student Loan Trust 2006-1 5/13/2009; The National Collegiate Student Loan Trust 2006-2 5/13/2009; The National Collegiate Student Loan Trust 2006-3 5/13/2009; The National Collegiate Student Loan Trust 2006-4 5/13/2009; The National Collegiate Student Loan Trust 2007-1 5/13/2009; The National Collegiate Student Loan Trust 2007-2 5/13/2009; The National Collegiate Student Loan Trust 2007-3 5/13/2009; The National Collegiate Student Loan Trust 2007-4 5/13/2009; The National Collegiate Trust 2001-CP1 5/13/2009; The National Collegiate Trust 2002-CP1 5/13/2009 (Otenti, Laura)

The following document(s) are associated with this transaction:

5/21/2009

Document description:Main Document

Original filename:C:\Documents and Settings\lpaioff\Desktop\TERI\Second Certificate of Service (Ted Cecala).pdf

Electronic document Stamp:

STAMP bkecfStamp_ID=1021399670 [Date=5/21/2009] [FileNumber=10728333-
)] [018f10ff620f05e67a16d0ac853edad73f1b9deff76d90b731ea18ab87dfdc2862
)3d30978e343d087eeef37cda038309788d4d0e0ea442274eb3212c6179ea8]]

09-01040 Notice will be electronically mailed to:

Peter M. Acton on behalf of Defendant U.S. Bank National Association
 paction@mwe.com, kjose@mwe.com

Dennis L. Jenkins on behalf of Defendant First Marblehead Data Services, Inc.
 lennis.jenkins@wilmerhale.com

Nicholas J. Nescgos on behalf of Plaintiff Official Committee of Unsecured Creditors
 mesgos@pbl.com

Laura Otenti on behalf of Plaintiff Official Committee of Unsecured Creditors
 otenti@pbl.com

David J. Reier on behalf of Plaintiff Official Committee of Unsecured Creditors
 dreier@pbl.com

De' v Varghese on behalf of Defendant U.S. Bank National Association
 va_guese@nixonpeabody.com, bos.managing.clerk@nixonpeabody.com

09-01040 Notice will not be electronically mailed to:

The National Collegiate Master Student Loan Trust I

The National Collegiate Student Loan Trust 2003-1

The National Collegiate Student Loan Trust 2004-1

The National Collegiate Student Loan Trust 2004-2

The National Collegiate Student Loan Trust 2005-1

The National Collegiate Student Loan Trust 2005-2

The National Collegiate Student Loan Trust 2005-3

The National Collegiate Student Loan Trust 2006-1

The National Collegiate Student Loan Trust 2006-2

The National Collegiate Student Loan Trust 2006-3

The National Collegiate Student Loan Trust 2006-4

The National Collegiate Student Loan Trust 2007-1

The National Collegiate Student Loan Trust 2007-2

The National Collegiate Student Loan Trust 2007-3

The National Collegiate Student Loan Trust 2007-4

The National Collegiate Trust 2001-CP1

The National Collegiate Trust 2002-CP1

Wilmington Trust Company